

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PAUL PHILLIPS, et al.,

Plaintiffs,

-v-

CITY OF NEW YORK, et al.,

Defendants.

CIVIL ACTION NO. 21 Civ. 8149 (ALC) (SLC)

ORDER

SARAH L. CAVE, United States Magistrate Judge.

Before the Court is Plaintiffs’ request for a conference to discuss their contemplated motion for service costs and fees under Federal Rule of Civil Procedure 4(d) in connection with their efforts to serve Defendant Renan Beauchard (the “Contemplated Motion”). (ECF No. 170 (the “Request”).) Chiefly, Plaintiffs contend that they are entitled to reimbursement of costs and reasonable fees under Rule 4(d) because Mr. Beauchard acted unreasonably in refusing to waive service of the Third Amended Complaint and otherwise failed to cooperate with Plaintiffs efforts to serve him. (ECF No. 170). Plaintiffs request a conference in an effort to “obviate the need for the [Contemplated Motion] or reduce the issues in dispute.” (Id. at 1). Mr. Beauchard, who the Office of the Corporation Counsel represents (ECF No. 172 at 1), opposes the Request, arguing that the Contemplated Motion would be without merit because, inter alia, Plaintiffs did not make a proper request to Mr. Beauchard to for the return of the waiver (id. at 1 (noting that “plaintiffs did not include a ‘prepaid means for returning the form’”) (citing Fed. R. Civ. P. 4(d)(1)(C))) and that there is good cause to excuse Mr. Beauchard’s failure to return the waiver because he was traveling back and forth from Haiti and did not reside at the subject premises during the time Plaintiffs attempted to serve him there. (Id. at 1–3).

The Request is DENIED WITHOUT PREJUDICE. By **April 9, 2024**, the parties shall meet and confer to discuss these issues and attempt to resolve them without Court intervention.¹ By **April 12, 2024**, the parties shall file a joint letter of not more than three pages reporting on their meet and confer efforts. In the event that Plaintiffs still intend to file the Contemplated Motion, the letter shall include a jointly-proposed briefing schedule.

The Clerk of Court is respectfully directed to close ECF No. 170.

Dated: New York, New York
April 5, 2024

SO ORDERED.


SARAH L. CAVE
United States Magistrate Judge

¹ The parties are advised that the Court has written on issues relevant to the Contemplated Motion. See Trombetta v. Novocin, No. 18 Civ. 993 (RA) (SLC), 2021 WL 3829803, at *4 (S.D.N.Y. Aug. 27, 2021) (denying motion for service costs under Rule 4(d) for failure to provide a “prepaid means for returning the waiver form,” such as “a self-addressed stamped envelope”).